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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,426	04/10/2006	Declan Patrick Kelly	NL031264	3750

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EXAMINER	
HARVEY, DAVID E	

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
12/10/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/575,426	KELLY, DECLAN PATRICK	
	Examiner	Art Unit	
	DAVID E. HARVEY	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 September 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-7,9,10 and 13-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 3-7, 9, 10, and 13-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> **(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.**

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admission of "prior art", as set forth in lines 1-20 on page 1 of the instant specification (as originally filed), in view of US Patent document 2003/0189668 to Newnam et al.

A) Applicant's admitted "prior art":

On page 1 of the instant specification as originally filed, applicant appears to describe a conventional interactive payback device which comprised:

> a) A interactive "Java" processing device for receiving event information that is embedded in an audio and or video data stream that is being provided/played by a set top box according to a predetermined playlist.

B) Differences:

Claim 1 appears to differ from the admitted prior art of the instant specification in that, as claimed, the event information is provided to the processing device by the playlist (as opposed to being provided within the data stream itself).

C) The showing of Newnam et al & obviousness:

The examiner maintains that, as is illustrated in Figure 7 thereof, Newnam et al describes an interactive playback system in which interactive event/trigger information (e.g., @ 505) is provided to an interactive processor (e.g., @ 200) directly from the playlist (e.g., @ 510) that is used to play audio and/or video from a storage device (e.g., @ 520). The examiner notes that, like applicant's own invention, Newnam et al explicitly recognized that such a configuration simplified the production of an interactive presentation over "prior art" systems in which the event/trigger information was embedded in the audio and/or video stream itself. **[Note paragraphs 0002, 0005, 0006, and 0010-0012].**

The examiner maintains that it would have been obvious to one of ordinary skill in the art to have modified the admitted prior art of the instant specification in

accordance with the teachings of Newnam et al in view that Newnam et al solved the same "problem" in an analogous environment. Namely, it would have been obvious to have modified the admitted prior art so as to provided the event/trigger information from the playlist as opposed to embedding it within the data stream.

3. Claims 3-7, 13-17, 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admission of "prior art", as set forth in lines 1-20 on page 1 of the instant specification (as originally filed), in view of US Patent document 2003/0189668 to Newnam et al. for the same reasons that were set forth above for claim 1. Additionally:

The examiner maintains that the claims are broad and fails to distinguish the claimed system over the prior art in which the processor is controlled to operate in synchronism with the playback of the A/V data stream via timing information provided by the playlist. More specifically, as disclosed by of Newnam et al, the playlist includes "mark" information (e.g., timing information) that is "reserved" for use by the interactive processor so as to "link" the execution of the interactive application to the play of the A/V data stream [e.g., note paragraph 0011]. It is further noted that the event information is necessarily generated before the interactive event is executed by the processor in response thereto.

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admission of "prior art", as set forth in lines 1-20 on page 1 of the instant specification (as originally filed), in view of US Patent document 2003/0189668 to Newnam et al. for the same reasons that were set forth above for claim 1.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admission of "prior art", as set forth in lines 1-20 on page 1 of the instant specification (as originally filed), in view of US Patent document 2003/0189668 to Newnam et al. for the same reasons that were set forth above for claim 9. Additionally:

As disclosed by of Newnam et al, the playlist includes at least "mark" information (e.g., timing information) that is "reserved" for use by the interactive processor [e.g., note paragraph 0011].

6. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admission of "prior art", as set forth in lines 1-20 on page 1 of the instant specification (as originally filed), in view of US Patent document 2003/0189668 to Newnam et al. for the same reasons that were set forth above for claim 9. Additionally:

The examiner maintains that the claims are broad and fails to distinguish the claimed system over the prior art in which the processor is controlled to operate in synchronism with the playback of the A/V data stream via timing information provided by the playlist. More specifically, as disclosed by of Newnam et al, the playlist includes "mark" information (e.g., timing information) that is "reserved" for use by the interactive processor so as to "link" the execution of the interactive application to the play of the A/V data stream [e.g., note paragraph 0011]. It is further noted that the event information is necessarily generated before the interactive event is executed by the processor in response thereto.

7. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admission of "prior art", as set forth in lines 1-20 on page 1 of the instant specification (as originally filed), in view of US Patent document 2003/0189668 to Newnam et al. for the same reasons that were set forth above for claim 17. Additionally:

The examiner takes Official Notice that it was well known in the computer art to have used an "interrupt" configuration to synchronize the operation of a processor to an event/trigger so that the computer does not have to monitor the input for the occurrence of the trigger/event thereby allowing the processor to devote it time entirely to the execution of running applications. The examiner maintained that it would have been obvious to have further modified the admitted prior art to operate using the "interrupt" thereby advantageously providing a more efficient used of the available processing power of the processor.

8. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admission of "prior art", as set forth in lines 1-20 on page 1 of the instant specification (as originally filed), in view of US Patent document 2003/0189668 to Newnam et al. for the same reasons that were set forth above for claim 1. Additionally:

The examiner takes Official Notice that it was well known in the computer art to have used an "interrupt" configuration to synchronize the operation of a processor to an event/trigger so that the computer does not have to monitor the input for the occurrence of the trigger/event thereby allowing the processor to devote it time entirely to the execution of running applications. The examiner maintained that it would have been obvious to have further modified the admitted

prior art to operate using the "interrupt" thereby advantageously providing a more efficient used of the available processing power of the processor.

9. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admission of "prior art", as set forth in lines 1-20 on page 1 of the instant specification (as originally filed), in view of US Patent document 2003/0189668 to Newnam et al. for the same reasons that were set forth above for claim 9. Additionally:

The examiner takes Official Notice that it was well known in the computer art to have used an "interrupt" configuration to synchronize the operation of a processor to an event/trigger so that the computer does not have to monitor the input for the occurrence of the trigger/event thereby allowing the processor to devote it time entirely to the execution of running applications. The examiner maintained that it would have been obvious to have further modified the admitted prior art to operate using the "interrupt" thereby advantageously providing a more efficient used of the available processing power of the processor.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID E. HARVEY whose telephone number is (571) 272-7345. The examiner can normally be reached on M-F from 6:00AM to 3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Marsh D. Banks-Harold, can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DAVID E HARVEY/

Primary Examiner, Art Unit 2621

DAVID E HARVEY
Primary Examiner
Art Unit 2621